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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,801	09/12/2003	Heino Deussen	030473	8360
23464	7590	07/17/2006	EXAMINER	
BUCHANAN INGERSOLL & ROONEY PC			NGO, LIEN M	
P.O. BOX 1404			ART UNIT	
ALEXANDRIA, VA 22313-1404			PAPER NUMBER	
			3754	

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,801

Applicant(s)

DEUSSEN, HEINO

Examiner

LIEN TM NGO

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,6-20 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,6-20 and 23-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4, 6-8, 10-12, 20, 23-26, 28 and 29 are rejected under 35

U.S.C. 102(b) as being anticipated by Moore (5,373,964). Moore discloses, in figs. 1-3, a dropper cap comprising a discharge channel 26 having an intake opening, a restrictor device 32, and an intermediate chamber located between the restrictor device and the intake opening. The restrictor device has at least one passage opening 33 whose cross section is smaller than the cross section of the intake opening of the discharge channel.

3. Claims 1, 4, 6-8, 10-17, 19, 20, 23-26 and 28-30 are rejected under 35

U.S.C. 102(b) as being anticipated by Sattler (DE 1063755). Sattler discloses, in figs. 1, a container comprising a wall with an interior surface, and a neck for receiving a dropper cap 2; the cap comprising a discharge channel 6 having an intake opening, a restrictor device 4, and an intermediate chamber located between the restrictor device and the intake opening. The restrictor device has a partition wall 7 attached to the interior of the wall, and at least one passage opening 8 whose cross section is smaller than the cross section of the intake opening of the discharge channel.

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4. Claims 13 –15, 18 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Newton (5,226,568). Newton discloses, in figs. 3 and, a container comprising a wall 20 with an interior surface, and a neck 21 for receiving a dropper cap 30; the cap comprising a discharge channel 34 having an intake opening, and a restrictor device 24, and an intermediate chamber located between the restrictor device and the intake opening. The restrictor device has a partition wall attached to the interior of the wall, and at least one passage opening 23 being offset to the intake opening.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore or Sattler in view of Mackal (3,189,233).

Moore or Sattler does not teach the passage opening of the restrictor device being offset to the intake opening.

Mackal teaches, in figs. 1 and 2, a restrictor device 26 having a plurality of passage openings 27 being offset to an intake opening 24.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the restriction device in the Moore or Sattler invention with a plurality passage openings offset to the intake opening, in view

teaching of Fontana, in order to facilitate of flowing of the liquid through the openings.

Response to Arguments

7. Applicant's arguments with respect to claims 1, 4, 6-20 and 23-30 have been considered but are moot in view of the new ground(s) of rejection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner
Art Unit 3754

July 7, 2006

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.